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NOTE BY THE SECRETARY-GENERAL

1. The Secretary-General has the honour to transmit to the Security Council a report submitted by the Executive Chairman of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of Security Council resolution 687 (1991) of 3 April 1991.

2. The present report is the seventh report by the Executive Chairman of the Commission following the adoption of Security Council resolution 1051 (1996) of 27 March 1996, in paragraph 16 of which the Council called for the consolidation of the reports required under the Council's resolutions 699 (1991) of 17 June 1991 and 715 (1991) of 11 October 1991.[1]

Notes

[1] The Commission's 24 previous reports called for under these resolutions are contained in documents S/23165, S/23268, S/23801, S/24108 and Corr.1, S/24661, S/24984, S/25620, S/25977, S/26684, S/26910, S/1994/489, S/1994/750, S/1994/1138 and Corr.1, S/1994/1422 and Add.1, S/1995/284, S/1995/494, S/1995/864, S/1995/1038, S/1996/258, S/1996/848, S/1997/301, S/1997/774, S/1998/332, S/1998/529 and S/1998/920.

Report of the Executive Chairman on the activities of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of resolution 687 (1991)

CONTENTS

		Paragraphs	Page
I.	INTRODUCTION	1 - 5	3
II.	DEVELOPMENTS IN RELATIONS BETWEEN IRAQ AND THE SPECIAL COMMISSION	6 - 28	3
III.	DISARMAMENT ISSUES	29 - 39	7
	A. Proscribed missiles	29 - 31	7
	B. Chemical weapons	32	8
	C. Biological weapons	33 - 36	8
	D. Other investigations	37 - 39	9
IV.	ONGOING MONITORING AND VERIFICATION	40 - 52	9
	A. Missile activities	40 - 44	9
	B. Chemical activities	45 - 47	10
	C. Biological activities	48 - 49	11
	D. Declarations and national implementation measures	50 - 51	11
	E. Export/import monitoring activities	52	11
V.	OTHER ISSUES	53 - 54	12
	A. Air surveillance activities	53	12
	B. Provision of assistance	54	12
VI.	CONCLUSIONS	55 - 56	12

I. INTRODUCTION

1. The present report covers the period from 6 October 1998 to 11 April 1999. It describes the activities of the Special Commission under the mandates given to it under resolutions 687 (1991), 707 (1991), 715 (1991) and 1051 (1996), and records the main developments in its relations with Iraq.

2. Under the terms of resolutions 1115 (1997) and 1134 (1997), the Executive Chairman is requested to include in his consolidated progress reports an annex evaluating Iraq's compliance with paragraphs 2 and 3 of resolution 1115 (1997), in which the Security Council calls, inter alia, for full cooperation, access to sites and individuals.

3. On 31 October 1998, Iraq terminated all of the Commission's activities in Iraq. The Commission's personnel were withdrawn on 11 November 1998 and did not return to Iraq until 17 November 1998 following a decision by Iraq, on 14 November 1998, which made that possible (S/1998/1078, annex).

4. In the period from 17 November to 15 December 1998, the status of Iraq's cooperation with the Commission was the subject of a series of special reports by the Executive Chairman to the Security Council (see, in particular, S/1998/1172 and Corr.1). It is suggested that these special reports, the cessation of all cooperation since the middle of December 1998, and the body of this report be taken as meeting the reporting requirements under resolutions 1115 (1997) and 1134 (1997).

5. On 16 December 1998, the Commission again withdrew its personnel from Iraq. The Commission has carried out no work in Iraq since that time.

II. DEVELOPMENTS IN RELATIONS BETWEEN IRAQ AND THE SPECIAL COMMISSION

6. Following the submission of the Commission's semi-annual report (S/1998/920) to the Security Council on 6 October 1998, the Executive Chairman briefed the Council, on 13 October 1998, on the broad themes outlined in that report.

7. On 26 October 1998, the Executive Chairman addressed a letter to the President of the Security Council (S/1998/995), attaching a copy of a report of a group of international experts on the chemical warfare agent VX. The group of experts, which had met in New York on 22 and 23 October 1998, recommended that Iraq be invited to explain and to provide further information on certain aspects of its VX programme.

8. On 30 October 1998, the President of the Security Council addressed a letter to the Secretary-General setting out the initial views of the members of the Security Council on how a comprehensive review of Iraq's compliance with its obligations under the resolutions, referred to in resolution 1194 (1998), would proceed.

9. On 31 October 1998, the Government of Iraq announced that it had decided to suspend, stop or cease all activities of the Special Commission, including monitoring activities, and that the monitoring teams would not be allowed to conduct any activities. The Deputy Executive Chairman of the Commission informed the President and the members of the Council of Iraq's decision in a letter dated that same day (S/1998/1023). Iraq's October 1998 announcement followed its earlier decision of August 1998 to bring to an end the Commission's disarmament activities in Iraq.

10. In a press statement on 31 October 1998, the members of the Security Council unanimously condemned Iraq's decision to cease all cooperation with the Commission, terming Iraq's decision a flagrant violation of relevant Council resolutions and of the memorandum of understanding (S/1998/166) signed between the Secretary-General and the Deputy Prime Minister of Iraq on 23 February 1998. The members also demanded that the Iraqi leadership rescind, immediately and unconditionally, its decision of that day and its decision of 5 August 1998 to limit cooperation with the Commission and the International Atomic Energy Agency (IAEA), as previously demanded by the Council in its resolution 1194 (1998).

11. On 4 November 1998, at the request of the Security Council, the Executive Chairman provided it with a technical report on the consequences of Iraq's decision of 31 October (S/1998/1032). He informed the Council that the Commission was not in a position to provide the Council with any level of assurance of Iraq's compliance with its obligations not to retain proscribed weapons or re-establish related activities.

12. On 5 November 1998, the Security Council unanimously adopted resolution 1205 (1998), in which, inter alia, it condemned Iraq's decision of 31 October, terming it a flagrant violation of resolution 687 (1991), and demanded that Iraq rescind immediately and unconditionally its decisions of 31 October and 5 August to suspend cooperation. The Council also reaffirmed its full support for the Commission and IAEA in their efforts to ensure the implementation of their mandates, as well as for the Secretary-General in his efforts to seek full implementation of the memorandum of understanding of 23 February 1998. The Council further reaffirmed its intention to act in accordance with the relevant provisions of resolution 687 (1991) on the duration of the prohibitions referred to in that resolution, and noted that by its failure so far to comply with its relevant obligations, Iraq had delayed the moment when the Council could do so (see S/PV.3939).

13. On the evening of 10 November 1998, the Executive Chairman decided to remove all of the Commission's personnel from Iraq. The Executive Chairman explained the circumstances surrounding the decision in a letter to the President of the Council dated 11 November (S/1998/1059), indicating that the prime consideration which motivated the decision and the speed at which it was executed was the safety of the Commission's staff in Iraq. The process of arriving at that decision included consultations with the President of the Council, the Director General of IAEA, and because of the presence of a significant contingent from the Chilean Air Force, the Acting Permanent Representative of Chile to the United Nations. The Office of the Secretary-General was informed about the decision. The Executive Chairman stated that the personnel concerned would remain in Bahrain pending decisions by

the Government of Iraq enabling them to return immediately to Baghdad. The entire contingent withdrew from Iraq to Bahrain on 11 November.

14. On 11 November 1998, the Secretary-General addressed a personal appeal to the President of Iraq to rescind Iraq's decisions and resume immediate cooperation with the Commission and IAEA (S/1998/1077, annex I).

15. On 13 November 1998, the Secretary-General wrote to the President of Iraq appealing once again for Iraq to resume cooperation with the Special Commission and IAEA (S/1998/1077, annex I).

16. On 14 November 1998, the Deputy Prime Minister of Iraq responded to the Secretary-General's letter of 13 November to the President of Iraq, stating that the goal of Iraq's decisions of 5 August and 31 October had not been to sever relations with the Special Commission and IAEA (S/1998/1077, annex II). He stated that Iraq had dealt with the Secretary-General's initiative regarding a comprehensive review, but unfortunately the deliberations of the Security Council on the procedures for carrying out the review had not resulted in a clear picture ensuring fairness and objectivity in reaching the implementation of paragraph 22 of resolution 687 (1991). However, in the light of the Secretary-General's letter under reply and assurances from a number of members of the Council, the leadership of Iraq had decided to resume working with the Special Commission and IAEA and to allow them to perform their normal duties in accordance with the relevant resolutions of the Security Council and on the basis of the principles of the 23 February 1998 memorandum of understanding. The Deputy Prime Minister transmitted with his letter a statement setting out the position of Iraq on a comprehensive review.

17. Following several meetings of the Council on 14 and 15 November 1998, the President of the Council issued a statement to the press (SC/6596/IK 258). He noted the statement contained in the letter of 14 November from the Deputy Prime Minister of Iraq, as clarified by the subsequent letters of 14 November to the President of the Council from the Ambassador of Iraq (S/1998/1079), that Iraq had decided, clearly and unconditionally, to cooperate fully with the Commission and IAEA, and that this decision constituted a rescinding of the decisions of 5 August and 31 October. The statement noted that the Council's confidence in Iraq's intentions needed to be established by unconditional and sustained cooperation with the Commission and IAEA. The Council members reaffirmed their readiness to proceed with a comprehensive review once the Secretary-General had confirmed, on the basis of reports from the Commission and IAEA, that Iraq had returned to full cooperation.

18. On 17 November 1998, the staff of the Commission and IAEA, normally based at Baghdad, returned to Iraq and resumed their work.

19. In the context of the Commission's resumption of work in Iraq, the Executive Chairman wrote three letters, on 17, 18 and 19 November 1998, to the Deputy Prime Minister of Iraq, seeking documents and explanations from Iraq in an attempt to bring to account outstanding priority disarmament issues and to increase the level of verification available to the Commission (S/1998/1106). In response to the request for specific documentation, some of which had been long-standing, Iraq, in essence, stated that the documents had either never

existed, could not be found or were not relevant to the Commission's activities (S/1998/1108). Iraq provided one set of documents out of the substantial quantity requested, which in the view of the Commission failed to satisfy the nature of the information solicited. Iraq did not provide to the Commission the Air Force document on the consumption of special munitions during the Iran/Iraq war which it had seized from a Chief Inspector on 8 July 1998.

20. With respect to the explanations and clarifications sought, Iraq declined to furnish the Commission with any further information on its biological warfare programme. Iraq did not provide the information required with respect to the disposition of certain chemical warfare munitions which would have permitted the sending of a team to continue verification of this outstanding issue (S/1998/1127). Iraq's replies on other points raised by the Executive Chairman did not advance the Commission's ability to settle any of the outstanding issues. In the main, Iraq repeated its previously stated positions.

21. In response to the wishes of Council members, expressed during informal consultations on 24 November 1998, the Commission provided the Council brief weekly reports on its activities. The first such report was sent on 3 December 1998 and a second report was submitted on 9 December 1998. On 14 December 1998, the Deputy Prime Minister of Iraq addressed a letter to the Secretary-General (S/1998/1173), enclosing a report by Iraq on the activities of the Commission and IAEA in Iraq from 18 November to 13 December, with Iraq's comments thereon.

22. On 15 December 1998, the Executive Chairman provided a report to the Secretary-General on the level of cooperation offered by Iraq in the period since 17 November (S/1998/1172, annex II). In that report, the Executive Chairman recalled the press statement by the President of the Security Council (see para. 17 above), and noted that the work of the Commission, when it resumed its work in Iraq on 17 November, was accordingly focused on four main areas, pursuant to the Commission's mandate: requests for information through access to documents and interviews of Iraqi personnel; monitoring inspections; inspections of capable sites; and disarmament inspections relating to proscribed weapons and activities. The Executive Chairman concluded that in the light of the experience in seeking to implement this comprehensive programme, Iraq had not provided the full cooperation it had promised on 14 November, and recorded that the Commission was not able to conduct the substantive disarmament work mandated to it by the Security Council and thus to give the Council the assurances it required with respect to Iraq's prohibited weapons programmes.

23. On the same day, 15 December 1998, the Secretary-General transmitted the Chairman's report to the Security Council (S/1998/1172 and Corr.1).

24. On 16 December 1998, the Executive Chairman wrote to the President of the Council,* confirming his previous evening's conversation with the President, during which he told the President that he had decided to remove all the Commission's personnel from Iraq. IAEA personnel also departed. This decision was taken in consultation with IAEA. The Executive Chairman's letter noted that

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* Text circulated informally to all members of the Security Council.

the prime considerations in his decision were to ensure the safety and security of the Commission's personnel and the need to act immediately.

25. On 16 December 1998, military action was initiated against Iraq by the United States and the United Kingdom (S/1998/1181 and S/1998/1182).

26. On 25 January 1999, the Executive Chairman submitted to the President of the Council two reports, one on the current state of affairs with respect to the disarmament of Iraq's proscribed weapons, the second on ongoing monitoring and verification in Iraq. Work on reports had been under way for several months as part of the preparation for a possible comprehensive review by the Council of Iraq's compliance with its obligations under relevant resolutions (S/1998/920, para. 77). It was thought that these materials, (consolidated as S/1999/94, annex) might be useful to members of the Council.

27. On 30 January 1999, the President of the Security Council issued a note stating that the Council had decided that it would be useful to establish three separate panels and to receive recommendations from them no later than 15 April 1999 (S/1999/100).

28. The panel on disarmament and current and future ongoing monitoring and verification issues was tasked to assess all the existing and relevant information available, including data from ongoing monitoring and verification, relating to the state of disarmament in Iraq and to make recommendations, taking into account relevant Security Council resolutions, on how to re-establish an effective disarmament/ongoing monitoring and verification regime in Iraq. The panel involved the participation of members and experts from the Special Commission. On 27 March 1999, the Chairman of the panel provided to the President of the Security Council the final report of the panel on disarmament and current and future ongoing monitoring and verification issues (S/1999/356, annex I).

III. DISARMAMENT ISSUES

A. Proscribed missiles

29. As a result of Iraq's decision of 5 August 1998 to cease cooperation with the Commission and halt its disarmament activities in Iraq, the Commission was unable to continue its disarmament inspections until 17 November 1998. Following this period, the Commission resumed its work in Iraq aimed at the resolution of priority outstanding disarmament issues in the missile area.

30. On 6 December 1998, an inspection team visited two sites used by Iraq to hide biological and chemical warfare warheads for Al Hussein missiles prior to their declared unilateral destruction, stated by Iraq to have occurred in 1991. During these visits, the team marked specific storage pits that were identified by the Iraqi officers responsible for the activity at these sites. The team interviewed these officers and the Commission's aerial inspection team took photographs of the sites. Based on these site surveys, the Commission has established that discrepancies remain between the available evidence of the

storage and movement of special missile warheads and Iraq's declarations, of July 1998, on their storage and unilateral destruction.

31. In the Executive Chairman's letter to Iraq's Deputy Prime Minister of 19 November 1998 (S/1998/1106), referred to earlier in the present report, the Commission reiterated its request of 5 August 1998 for the removal from Iraq, for laboratory analysis, of liquid propellant engine components from Iraq's proscribed indigenous missile production programme. The Commission views the analysis of these components as critical to its verification of Iraq's declarations concerning the achievements in its indigenous programme. In its letter of response of 25 November 1998 (S/1998/1125), Iraq stated that in its view the request for analysis was not justified on technical or scientific grounds. On 4 December 1998, the Commission's experts met with Iraq's representatives to discuss again the release of these components. On 6 December 1998, Iraq's representatives reiterated the official negative response.

B. Chemical weapons

32. It was not possible to pursue any disarmament activities in Iraq in the chemical weapons area in the period under review. Iraq's unilateral claim of August 1998 that all outstanding disarmament issues had been resolved is in contrast to the Commission's findings on the status of the verification of Iraq's declarations on its proscribed chemical weapons activities. Iraq refused to provide documents and evidence required for the further verification of those proscribed activities requested by the Commission.

C. Biological weapons

33. As the result of Iraq's decision of 5 August 1998 to stop the Commission's disarmament activities in Iraq, the Commission was unable to continue its disarmament inspections until returning to Iraq on 17 November 1998. Subsequently, three biological disarmament inspections were sent to Iraq to resume investigation of various aspects of Iraq's proscribed biological warfare programme.

34. An inspection team was in Iraq from 1 to 6 December 1998 and pursued the investigation on microbial agent research for biological warfare purposes and Iraq's planning for biological warfare agent production and weaponization. The team conducted numerous interviews with Iraq's representatives. These interviews yielded no new information that would enable clarification of outstanding issues.

35. A second inspection team was in Iraq from 6 to 10 December 1998, and held discussions with Iraqi officials on bacterial growth media for Iraq's biological warfare programme. The team requested Iraq to provide several specific documents to support its declaration, including a logbook with records of relevant imports for the biological warfare programme. Iraq did not provide the documents requested. The team also revealed to Iraq documentary evidence of the import of growth media for the biological warfare programme, previously not

included in Iraq's declarations. Subsequently, Iraq admitted that this undeclared import had occurred, and as a result Iraq has recently provided to Council members an informal paper in which it has revised its previous statements on the material balance of growth media.

36. Another inspection team was in Iraq from 10 to 16 December 1998 to explore the consumption of growth media (yeast extract) by Iraq, and investigated issues related to its importation and possible connection with the biological warfare programme. The team was able to clarify aspects of the end use of this importation of growth media.

D. Other investigations

37. During the period under review, the Commission continued its inspections of sites on which Iraq does not submit reports as to their activities. Several multidisciplinary inspections were conducted in the period October to December 1998. The purpose of the inspections was to ensure the absence of prohibited activities and undeclared dual-use equipment at those sites. No prohibited activities were identified at the sites. However, some dual-use biological and chemical equipment which Iraq had not declared to the Commission was found (see paras. 46 and 49 below).

38. During the period 8 to 12 December 1998, a Commission team conducted an inspection of sites in Iraq, the aim being to locate proscribed documents and items related to Iraq's weapons of mass destruction programmes. The team inspected six sites located either at Baghdad or in close proximity to it. On several occasions during the inspection process, Iraq made efforts to frustrate and harass the inspection team while the team was performing its mandated tasks.

39. At a site designated for inspection on 9 December 1998, protracted discussions on access to the site between the Chief Inspector and his Iraqi counterpart failed to yield satisfactory access. During these discussions, Iraq sought to introduce various new requirements, including a formal letter of request indicating what was being sought at the site. Similarly, on 10 December 1998, Iraq delayed the team's access to another site for 45 minutes on the grounds that it was "sensitive". On gaining access to the site, it was found to have been deliberately emptied of its contents. In the light of such evidence that Iraq had taken advance actions at certain of the locations planned for inspection in order to defeat the purposes of inspection, the Executive Chairman decided not to conduct the full range of inspections that the team had planned.

IV. ONGOING MONITORING AND VERIFICATION

A. Missile activities

40. In its efforts to strengthen its monitoring of Iraq's non-proscribed missile activities, the Commission decided to obtain additional independent technical means of verification. During the period 3 to 15 December 1998, the Commission's non-resident team conducted a survey of a primary missile flight

testing site in Iraq in preparation for the intended deployment of a missile in-flight tracking system to be operated by the Commission. The scope of the survey was coordinated with Iraq and was conducted in a cooperative environment. Despite its early withdrawal on 16 December, the Commission's team was able to complete all objectives of the survey. Preparation for the deployment of a precision tracking system have proceeded, considering the importance of such equipment as a part of future monitoring in the missile area.

41. Iraq has progressed in its efforts to test indigenously produced or modified missiles, in particular the Samoud system, which has a declared range of 149 kilometres. The Commission continued to supplement its missile monitoring team at the Baghdad Monitoring and Verification Centre with additional experts in missile testing in order to observe and assess Iraq's pre-test, test day and post-test activities. Inspections were conducted to observe missile test preparations or actual test activities, both static and flight.

42. During the period 1 to 14 December 1998, the Commission conducted its third verification inspection in 1998 of Iraq's operational missiles to ensure that such missiles have not been modified for proscribed ranges or purposes. The team checked Commission tags on 249 missiles and verified the consumption of one missile in a flight test. No proscribed modification activities were detected during inspections of Iraq's operational missiles in 1998.

43. During the period from 11 October to 15 December 1998, the resident missile monitoring team conducted some 100 inspections, of which 60 were no-notice inspections and four were joint inspections with other weapons disciplines. During the period 6 to 31 October 1998, the monitoring team experienced several instances in which Iraq refused requests for test data for monitored items and refused to permit photography of items at declared facilities. In these cases, Iraq's representatives stated that the refusals were based on Iraq's own determination that the data and photographs were not relevant to missile monitoring. During the later period, 17 November to 15 December 1998, no such incidents occurred.

44. On 5 December 1998, the missile monitoring team conducted a compliance inspection of a site at Baghdad in order to verify information provided to the Commission that offices at this site had been involved in proscribed or undeclared missile activities. Iraq cooperated in the inspection of this site, and facilitated access to private offices and residences. No ongoing proscribed activity was identified at the site.

B. Chemical activities

45. During the reporting period, one non-resident chemical monitoring inspection was conducted from 22 to 28 November 1998. The team continued previous efforts related to monitoring chemical emissions at a number of industrial facilities and chemical storage sites in Iraq. This mission used an Open-Path Fourier Transform Infrared Spectrometer. No proscribed activities were detected.

46. The resident chemical monitoring teams conducted 57 inspections of chemical facilities and related sites. Ten of these inspections were carried out in conjunction with other weapons disciplines. The inspections discovered a number of pieces of dual-use equipment not declared by Iraq (e.g., storage vessels, alloy sheet metal, pipes, valves and production equipment). The chemical monitoring teams inspected 213 pieces of tagged dual-use chemical production equipment. No proscribed activities were discovered.

47. The chemical monitoring teams encountered serious restrictions on carrying out its mandate. These restrictions, carried out from the time of Iraq's August 1998 decision, sought to limit the range of sites to which access would be granted. There were problems regarding access to specific buildings and objections to inspections on Fridays and holidays. In one instance, the Commission's right to take photographic and video records of relevant munitions and other items was disputed by Iraq (S/1998/1172 and Corr.1).

C. Biological activities

48. A non-resident inspection team was sent to Iraq from 3 to 10 December 1998 to conduct in-depth inspections of key biological sites. Iraq took actions to hinder the conduct of these inspections (S/1998/1172 and Corr.1).

49. During the period when the Commission's monitoring activities in Iraq were possible, the biological monitoring team carried out some 84 inspections of biological facilities and related sites. In addition, 12 inspections were carried out in conjunction with other weapons disciplines. Monitoring inspections discovered undeclared dual-use equipment, such as filter presses, biological safety cabinets and a fermenter control unit. Dual-use material, such as growth media which had not been declared by Iraq, was also discovered.

D. Declarations and national implementation measures

50. Under the Commission's monitoring plan, Iraq is required to provide to the Commission semi-annual declarations on activities, facilities, materials and other items that might be used for prohibited purposes. Iraq has not provided the declarations which were due on 15 January 1999. The Commission has not received any other notifications required from Iraq under the monitoring plan.

51. In the period under review, Iraq does not appear to have adopted the national implementation measures required under the Commission's monitoring plan to prohibit all natural and legal persons under Iraq's jurisdiction or control from undertaking anywhere any activity that is prohibited for Iraq under the relevant resolutions or the plan.

E. Export/import monitoring activities

52. During the reporting period, some 70 inspections were conducted. The group continued to verify the arrival of dual-use items notifiable under the export/import monitoring mechanism approved by the Security Council in its resolution

1051 (1996). After 15 December 1998, the Government of Iraq ceased to provide any notification forms on its import of notifiable items.

V. OTHER ISSUES

A. Air surveillance activities

53. All air surveillance activities undertaken by the Commission were suspended on 15 December 1998 and have not been resumed since that time. This includes the high-altitude surveillance undertaken by a U-2 aircraft, the medium-altitude surveillance conducted by a Mirage-IV aircraft and the low-altitude surveillance conducted by helicopters.

B. Provision of assistance

54. The Commission wishes to once again place on record its thanks to all those Governments which have provided assistance for the conduct of its operations. In particular, it wishes to note, with appreciation, the contribution made by the Government of Bahrain through the provision of facilities for the Commission's field office.

VI. CONCLUSIONS

55. As is evident from the body of this report, the Commission has not received, in the period under review, the cooperation required of Iraq to enable it to conduct its work as mandated by the Security Council. Unfortunately, this means that the Commission is not yet able to give the Security Council the assurances that it requires with respect to the final disposition of Iraq's proscribed weapons programmes and their possible reconstitution.

56. With respect to what remains of Iraq's disarmament obligations and current and future monitoring in Iraq, the position of the Commission remains as set out in the two reports which the Executive Chairman submitted to the President of the Council on 25 January 1999 (consolidated in S/1999/94).